

Appl. No. 10/748,034  
Amdt. dated September 28, 2006  
Reply to Office Action of June 29, 2006

**Amendments to the Drawings:**

Figure 5 has been amended to add reference numbers 90, 92, and 94 to the structural elements forming the cup holder 66. A replacement drawing sheet is attached to this reply showing the reference numbers and lead lines to the various elements.

## **REMARKS/ARGUMENTS**

Pending claims 1, 16-19, 22-26 and withdrawn claims 7, and 12-15 are presented for Examiner's consideration. Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

### **I. Amendments to the Specification and Drawings.**

The specification and Figure 5 have been amended to discuss the structural elements of the cup holder 66 illustrated in Figure 5. No new matter is believed to be introduced since the Applicants are merely placing into words the structural elements of the cup holder originally drawn in Figure 5. Applicants request entry of the amendments to the specification and drawings.

### **II. 35 U.S.C. §112 Rejections**

Claim 22 stands rejected under 35 U.S.C. §112 second paragraph as being indefinite since there is insufficient antecedent basis for the limitation when it depends from claim 16. Claim 22 has been amended to provide the necessary antecedent basis. Applicants believe that the claim is proper as now written and request the Examiner to remove the rejection.

### **III. 35 U.S.C. §102 Rejections**

Claims 1, 16, 19, and 26 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. patent number D374,360 issued to Angermeir. Angermeir illustrates a tissue box having a holder comprising two folded panels that can extend from the side of the tissue box. The two folded panels are then placed between a box spring and a mattress to position the tissue box adjacent to the mattress. The Examiner has stated that the folded panels of Angermeir enables the tissue box to be attached to a large flat surface, and that a large flat surface can be a cup holder. Applicants respectfully traverse the rejection since without the folded panels of Angermeir being placed between a box spring and mattress, the tissue box, due to its own weight, would fall to the ground if the folded panels are placed onto a large flat surface. I.E. simply placing the tissue box of Angermeir over the edge of an ordinary table would not support and hold the tissue box in a manner as suggested by the Examiner. The tissue box would tip and fall to the ground from its own weight by sliding off of the table top unless the folded panels were restrained from moving in some manner not suggested or taught by Angermeir.

Furthermore, the Applicants at page 3 define a cup holder as a device that is designed to **support and hold** standard beverage containers. While a large flat surface may support a beverage container it does not **hold**<sup>1</sup> the beverage container to prevent spilling when the large flat surface is

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<sup>1</sup> Hold – To keep from falling or moving. The American Heritage College Dictionary Third Edition.

placed into motion as would occur if the large flat surface was a dashboard of a moving car. Furthermore, it is clear to one of ordinary skill in the art what a cup holder is and people do not refer to tables, dashboards, center consoles or other objects with large flat surfaces as cup holders.

However, in an effort to advance prosecution, the Applicants have amended independent claim 1 to positively recite that the cup holder has a side support. The side support prevents translational movement of the beverage container by contacting the sidewall of the beverage container thereby holding the beverage container in its position. As such, the folding panels of Angermeir are not capable of being fit into or attached to a cup holder comprising a side support as claimed. Therefore, claims 1, 16, 19, and 26 are not anticipated by Angermeir for the rational provided by the Examiner.

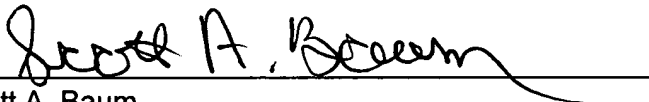
For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in a condition for allowance. Additionally, since the remaining withdrawn claims depend from an allowable claim they are also in a condition for allowance.

Please charge any prosecution fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-7760.

Respectfully submitted,

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CERTIFICATE OF MAILING

I, Lanette Burton, hereby certify that on September 28, 2006, this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By:

  
Lanette Burton